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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/21/2003

Shiping Wang

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79439

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05/05/2009

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EXAMINER

BERNATZ, KEVIN M

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

05/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendments to claims 18, 34 and 35, filed on February 9, 2009, have been entered in the above-identified application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Examiner's Comments***

3. Regarding the limitation(s) "substantially the entire skin-contacting elastomeric surface" in the claims, the Examiner has given the term(s) the broadest reasonable interpretation(s) consistent with the written description in Applicants' specification as it would be interpreted by one of ordinary skill in the art. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Donaldson Co., Inc.*, 16 F.3d 1190, 1192-95, 29 USPQ2d 1845, 1848-50 (Fed. Cir. 1994). See MPEP 2111. Specifically, the term "substantially the entire skin-contacting elastomeric surface" has been taken that the only portions of the elastomeric surface that have no coating are portions within the range of typical processing conditions and that there is no portion explicitly left uncoated for a specific design reason. I.e. a bandage, even having only a small fraction of it's total surface uncoated, has the uncoated portion specifically left uncoated for the design reason of allowing the uncoated portion to adhere to the user. A bandage (*as in Soerens et al.*) is not deemed to read on the current claim language.

***Double Patenting***

4. Claims 18 – 36 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 33 - 55 of copending Application No. 10/882,580 for the reasons of record as set forth in Paragraph No. 6 of the Office Action mailed on October 9, 2008. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

5. Claims 18 – 29 and 31 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou (U.S. Patent No. 6,953,582 B2) in view of Mansouri (U.S. Patent App. No. 2001/0006680 A1) and Hahn et al. (U.S. Patent App. No. 2003/0124202 A1) and/or Murray et al. (U.S. Patent No. 4,920,158) for the reasons of record as set forth in Paragraph No. 9 of the Office Action mailed on October 9, 2008.

6. Claims 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou '582 B2 in view of Mansouri and Hahn et al. and/or Murray et al. as applied above, and further in view of Soerens et al. (U.S. Patent No. 6,967,261 B1) for the reasons of record as set forth in Paragraph No. 10 of the Office Action mailed on October 9, 2008.

***Response to Arguments***

**7. The Double Patenting rejection of claims 18 - 36 in view of copending Application 10/882,580**

No arguments have presently been presented.

**8. The rejection of claims 18 - 36 under 35 U.S.C § 103(a) – Soerens et al. in view of various references**

The above noted rejection has been withdrawn because Applicants' amendment(s) have set forth new limitations (e.g. "a coating composition provided directly on substantially the entire skin-contacting elastomeric surface of said elastomeric layer") no longer anticipated, nor rendered obvious, by the above noted rejection.

**9. The rejection of claims 18 - 36 under 35 U.S.C § 103(a) – Chou '582 in view of various references**

Applicant(s) argue(s) that Chou provides "absolutely no guidance regarding how to incorporate any other ingredients into the coating" (*page 10 of response*), hence rendering the combination patentable over the Chou reference. The Examiner respectfully disagrees.

The Examiner notes that all of the added materials are art recognized materials within the same field of endeavor. ***Absent evidence to the contrary***, the Examiner deems that the use of these ingredients into a coating within the same field of endeavor

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would have been within the knowledge of one of ordinary skill in the art at the time of Applicants' invention.

Applicants further argue that Hahn et al. teaches away from a composition including gluconolactone and a moisturizer since they teach also using strontium cations (*pages 10 - 11 of response*). The Examiner respectfully disagrees since the present claims are open to additional additives, *such as the strontium cations of the Hahn et al. invention*. Should Applicants desire to exclude the strontium cations, Applicants should consider adopting the closed language "consisting of", instead of the open language "comprising".

Applicant(s) argue(s) that Murray et al. is non-analogous art (*page 11 of response*). The Examiner respectfully disagrees.

The Examiner notes that all of the references are directed to elastomeric gloves and would therefor fall within the same scope of knowledge for a skilled artisan. This is further evidenced by Mansouri teaching that it is known in the art to use plasticizers in the glove art, which is the reason behind the Murray et al. use of gluconolactone.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin M. Bernatz whose telephone number is (571) 272-1505. The Examiner can normally be reached on M-F, 9:00 AM - 5:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kevin M Bernatz/  
Primary Examiner, Art Unit 1794

April 30, 2009